

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE  
MINUTE ORDER**

BEFORE: STEVEN I. LOCKE  
U.S. MAGISTRATE JUDGE

DATE: 7/29/24  
TIME: 10:45 am

**CASE: CV 18-3612(SIL) Zambito v. United States of America**

**TYPE OF CONFERENCE: MOTION**

**FTR: 10:42-11:13**

**APPEARANCES:**

For Plaintiff: Daniel Perrone

For Defendant: Mary Dickman

**THE FOLLOWING RULINGS WERE MADE:**

- ☒ ORDER: Motion hearing held. Plaintiff's motion DE [129] is granted in part and denied in part as follows. The parties will be permitted at trial to use only those documents exchanged prior to September 15, 2023. In making this ruling the Court recognizes that the Government did not serve Rule 26 disclosures until only recently and so Plaintiff's experts, when producing their reports on September 15, 2023, thought they were operating from the entire universe of documents (as did Plaintiff) when they were not. It would not be fair to allow the parties proceed to trial in this fashion without a corrective ruling. Indeed, a failure to enter this ruling would require that Plaintiff's expert be permitted to review the newly produced documents and modify their reports as appropriate – further delaying a seven year-old case and require further expense to Plaintiff. The Court is unwilling to reopen discovery at this late date for this purpose.

The only exception to this ruling is that documents newly generated subsequent to September 15, 2023, and timely produced, may be used. This exception includes the records of Dr. Talmor, who started treating Plaintiff after September 2023. As to the newly identified witnesses to be called for authentication purposes, the pretrial order will indicate this with an eye toward stipulation to the authenticity of the relevant documents.

Based on these rulings, the Government will serve a revised draft pretrial order to Plaintiff no later than August 9, 2024. Plaintiff will provide his contribution no later than August 23, 2024. The Government will submit the fully compiled proposed pretrial order on August 30, 2024.

**COURT APPEARANCES:**

The following conference(s) will be held in courtroom 820 of the Central Islip courthouse:  
9/5/24 at 10:00 am : Status conference

SO ORDERED

/s/Steven I. Locke  
STEVEN I. LOCKE  
United States Magistrate Judge

